

## **EXHIBIT L**

**DECLARATION OF ANN M. O'LEARY IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION**



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## Zoning for sale?

*Developers give mayor \$100,000 just before key planning vote*

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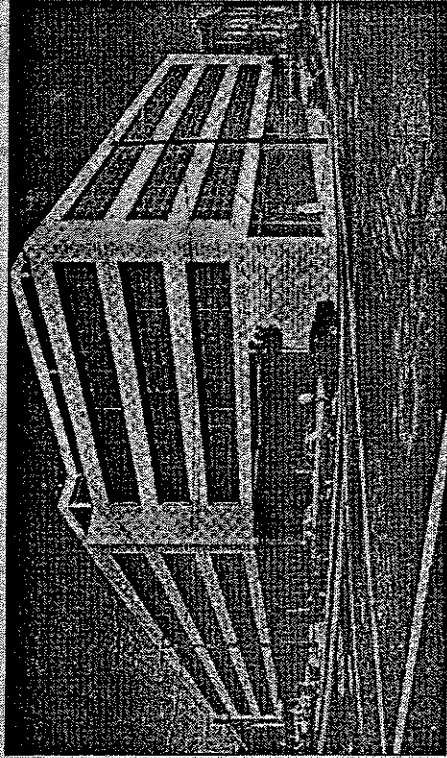
Developers of a controversial Mission District office complex, scheduled for preliminary consideration by the Planning commission Jan. 6, pumped nearly \$100,000 into Mayor Willie Brown's campaign just days before the Dec. 14 runoff election.

Observers say a contribution of that size to a top city official right before a key vote is highly unusual and raises serious ethical questions.

SKS-Simon, a major developer of SoMa multimedia industry office space, contributed \$95,000 to the COM Better Government Committee, an independent expenditure, or "soft money," political action committee set up Dec. 7 by the executive director of a new nonprofit technology industry group. Another \$10,000 was contributed by CGI, a Canadian high-tech firm, along with \$5,000 apiece from Robert J. McCarthy and GCA Strategies Inc., two lobbyists for SKS.

The committee promptly spent \$93,000 on a mailer supporting Brown's reelection.

Bankrolling of the COM committee came just weeks before a public hearing on the draft environmental impact report for Bryant Square, a \$20 million commercial development on Bryant Street between 19th and 20th Streets. If ultimately approved, the project will feature a new five-story office building, renovated existing historic structures, and an



Soviet-style behemoth: Bryant Square would overwhelm its neighborhood.

underground garage.

The project has infuriated some neighbors and activists who argue that it is way out of scale with the neighborhood.

The 166,815-square-foot project calls for razing two buildings to make way for new structures and renovating two other buildings.

Among other things, Bryant Square will create more parking hassles in a neighborhood where parking is already at a premium. SKS is proposing to provide parking in the form of a double-decker underground garage, but that won't cover the demand the project is projected to create. According to the draft environmental impact report, the development will cause a neighborhood parking shortfall of anywhere from 53 to 151 spaces.

The result, the EIR says, will be "increasing competition for limited on-street

parking, which is currently near or exceeding capacity."

The document also notes that the project will create "significant traffic impacts." The Planning Department expects the project to generate 3,324 new trips daily, via car, Muni, foot, and bike.

SKS would like to tack an extra floor onto the three-story 1920s vintage brick building at 2101 Bryant, bringing the height up to 65 feet — and making the structure taller than anything in the neighborhood (except for the planned five-story structure).

A three-story wooden warehouse at 2125 Bryant — that until recently housed light industry and artisans — will be demolished to make way for a new five-story Soviet bloc-style office. "This project would contribute to additional displacement of relatively small businesses

including arts-related activities," the EIR notes. Cheap office space, a furniture refinishing shop, an auto shop, and numerous art studios are being lost to the development.

The new structure at 2125 Bryant — the corner of Bryant and 20th Street — will clock in at 202 feet in length and 217 feet diagonally, nearly twice the planning code's allowable limit. Critics say the new glass-and-cinder block behemoth, which will be substantially bulkier than the existing structure, will be out of character with the neighborhood's Victorians and renovated factories and warehouses.

### Textbook corruption

Although the COM expenditure was a mere fraction of the \$2.45 million in soft money that inundated Brown's campaign war chest, the timing of SKS contributions are viewed by some critics as a textbook example of the role soft money appears to play in political contests.

"This is not unconditional love," said Charles Marsteller, who resigned recently as coordinator for San Francisco Common Cause, a government watchdog group. "Where you see major contributors with large expenditures there's a lot of potential for corruption."

Brad Heavner, an analyst with California Public Interest Research Group, which advocates for campaign finance reform, agrees.

"It's clear and obvious that there's the See 'Zoning,' page 16



## Zoning

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potential for the appearance of corruption," he told us. "Whether or not they're trying to get a vote for a dollar, you can't nail it down. But it certainly looks bad."

"I see that all the time at the federal level: a key vote is coming up in the committees, and you'll see the money come flooding in — it's beyond any possibility of coincidence."

The .COM funding wasn't the only money SKS or its lobbyists contributed to Brown's campaign effort.

Contribution reports show that earlier this year SKS Rhode Island LLC and Bryant Square LLC, an SKS affiliate, each gave \$5,000 to the San Francisco Democratic County Central Committee, which ultimately spent \$265,000 in soft money on Brown's successful reelection bid. The companies also contributed the maximum \$500 each to Brown's reelection committee.

Lobbyist McCarthy contributed \$10,500 to the Democratic county committee and made smaller gifts to the Golden Gate Restaurant Association PAC and the Alice B. Toklas Democratic Club, two other independent expenditure committees that spent huge amounts on Brown's behalf.

"Any contributions will come near Election Day, and some suspicious activists will always infer evil intentions," Debra Stein, president of GCA Strategies, said. "SKS and GCA are on many contribution lists."

Sue Hestor, a land use lawyer representing many artists and small business enterprises being pushed out by new developments in the Mission and SoMa, says contributions of the magnitude of those made by SKS are extremely unusual.

"The last time there were contributions of that size was in the '60s in the Alioto races," she said, adding that she hadn't seen such brazen bankrolling since the 1970s.

"I didn't hear the mayor saying, 'Don't spend the money, so people assume they're buying access,'" Hestor said. "I'm sure SKS saw that \$100,000 as an investment. It wasn't a charitable contribution. They think they're going to get something for their money."

### High-tech lobbying

Jim Gonzalez, treasurer of the .COM committee and the newly hired executive director of the Information Technology Coalition, a nonprofit, tax-exempt organization established in September to promote the interests of information technology and multimedia companies, said the independent expenditure committee and ITC are "two totally different organizations," although some of the same people "are involved in both."

Gonzalez, a registered lobbyist himself, is a former San Francisco supervisor and was an aide to former Mayor Dianne Feinstein. He said ITC has a "growing membership" and a 19-member board of directors composed of venture capitalists, private investors, information technology executives, and one developer he did not identify.

"ITC is an independent organization helping to guide policy," GCA's Stein said, "and not a campaign committee." She said her client, SKS, has been active in the high-tech area and "plays a major role in the dot-com community."

SKS-Simon is a joint venture of San Francisco's SKS Investments and Simon Realty, of Los Angeles, a company formed by former Treasury secretary William E. Simon and operated by his sons. Partners in SKS Investments are Paul E. Stein, a former marketing executive with the Shorenstein Co.; his sister Julie Stein, a former financial analyst for Salomon Brothers; and Daniel R. Kingsley, a former urban planner for architects Skidmore Owings & Merrill in New York.

Neither McCarthy or partners in SKS Investments returned *Bay Guardian* calls seeking comment.

For the past three years, Simon Realty has quietly been acquiring SoMa properties where it believes office space attractive to multimedia companies can be developed. SKS is responsible for development planning and construction.

### Greasing the wheels

Since early 1997, when property acquisition and project planning began, SKS has paid McCarthy & Schwartz and GCA Strategies a combined total of \$91,482 to lobby the Mayor's Office, Planning Department officials, and members of the Board of Supervisors on several SoMa projects.

It appears the current full-court lobbying press is focusing on Bryant Square. According to lobbyist activity reports filed with the city Ethics Commission, during the first nine months of this year McCarthy spent the bulk of his SKS lobbying efforts on the Mission District, communicating or meeting repeatedly with city planning director Gerald Green, various planning commissioners, Sup. Leslie Katz, and Sup. Michael Yaki concerning the Bryant Square project.

Just three days before Christmas, city planning administrator Mary Gallagher, who held dual positions as a civil service planner and appointed zoning administrator, resigned her administrative position after McCarthy complained to her boss, Green, about a ruling adverse to another of his and GCA Strategies clients, Sutro Tower. Green promptly reversed Gallagher's decision.

Katz is on vacation until Jan. 8 and couldn't be reached for comment, according to one of her aides. Yaki did not return *Bay Guardian* calls. Brown spokesperson Candace Bender also did not return calls.

Hestor, who's appealing approval of SKS's 2300 Harrison project, says funding of the .COM committee by developers "puts lie to the .COM. It's not multimedia companies, it's the real estate developers."

"A lot of the businesses [in the current Bryant buildings] are small entrepreneurs, basically women and minorities," she says. "And they're going to be gone." ♦

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